

FY 2011 Community Revenue Sharing Program

APPLICATION FORMS

Filing Deadline: June 1, 2010



**State of Alaska
Sean Parnell, Governor**

**Department of Commerce, Community,
and Economic Development
Emil Notti, Commissioner**

**Division of Community and Regional Affairs
Tara Jollie, Director**



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Community and Regional Affairs

Sean Parnell, Governor
Emil Notti, Commissioner
Tara Jollie, Director

Dear Municipal Official:

The Division of Community and Regional Affairs (DCRA) is pleased to provide you with the attached FY 11 Community Revenue Sharing Program application. **To participate in the FY 11 Community Revenue Sharing Program, this application must be completed and returned to the Department, postmarked no later than June 1, 2010.**

The application consists of three pages. Page one, or the cover sheet, provides several questions that must be answered in order to determine whether the borough meets the minimum qualifications for funding as required by law. Page one also provides a "certification and assurances" statement that must be signed by either the mayor, manager or administrator of the borough. Page two is a FY 11 Community Revenue Sharing Program budget form. The budget form, which provides an estimate of the borough's FY 11 Community Revenue Sharing payment, must be completed and returned with the application cover sheet.

Page three is a sample resolution for use by the borough assembly to identify to the DCRA the unincorporated communities located within the borough it determines to be eligible for funding under the FY 11 Community Revenue Sharing Program. We have attached the pertinent statutes and regulations to assist the borough in making its eligibility determinations.

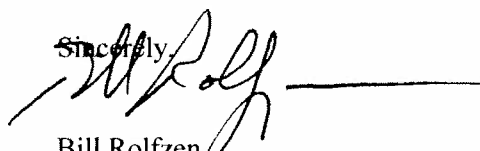
In addition to the completed application, each borough must submit to the DCRA a copy of its approved FY 11 borough budget (2010 budget for boroughs operating on a calendar fiscal year) and FY 09 audit. Note: The budget and audit are not due by the June 1, 2010, application deadline. They may be submitted at a later date.

The completed FY 11 Community Revenue Sharing application, FY 11 borough budget, and FY 09 audit should be submitted to:

Division of Community and Regional Affairs
Community Revenue Sharing Program
P.O. Box 110809
Juneau, AK 99811

Please be aware that funding for the Community Revenue Sharing Program will decline substantially in future years if the Legislature decides not to appropriate additional monies into the Community Revenue Sharing Fund. For example, with no further appropriations, payments will decline by over 33% in FY 12, 55% in FY 13, and no funding will be available for distribution in FY 14.

Should you have any questions regarding the FY 11 Community Revenue Sharing Program, please feel free to call me at 907-465-4733.

Sincerely,

Bill Rolfzen
Program Administrator

P.O. Box 110809, Juneau, Alaska 99811-0809
Telephone: (907) 465-5550 / 465-4733 Fax: (907) 465-4761 Text Telephone: (907) 465-5437
Email: questions@alaska.gov Website: <http://www.commerce.state.ak.us/dcra/>

FY 2011
COMMUNITY REVENUE SHARING PROGRAM
APPLICATION COVER SHEET

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Name of Municipality

Date

--

Mailing Address

	907-
--	------

City, State, Zip Code

Phone

“Minimum Qualifications”	Yes	No	Not Applicable
a. Did your municipality successfully conduct its most recently scheduled local regular election?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are regular meetings of the governing body held in accordance with local code and a record of the proceedings maintained?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Have your municipality's ordinances been codified?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. If the municipality levies and collects property taxes, has the municipality provided the Taxpayer Notice required by AS 29.45.020?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. If the borough levies and collects only a sales and use tax, has the borough provided the Taxpayer Notice required by AS 29.45.660?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

“Certification and Assurances”

The applicant certifies that to the best of my knowledge and belief, the information contained in this application is true and correct and the applicant agrees to comply with the laws and regulations which are used to administer Community Revenue Sharing Program funds.

 Mayor, Manager or Administrator
 Printed Name

 Mayor, Manager or Administrator
 Signature

FY 2011 Community Revenue Sharing Budget Form

(Name of Municipality)

Please describe below how your municipality proposes to use its estimated FY 2011 Community Revenue Sharing payment.

FUEL	\$ _____
ELECTRICITY	\$ _____
INSURANCE	\$ _____
EDUCATION	\$ _____
WATER/SEWER	\$ _____
PUBLIC SAFETY	\$ _____
FIRE	\$ _____
ROAD MAINTENANCE	\$ _____
HARBORS	\$ _____
HEALTH	\$ _____
LOCAL TAX RELIEF	\$ _____
GENERAL ADMINISTRATION	\$ _____
OTHER _____	\$ _____
OTHER _____	\$ _____
OTHER _____	\$ _____
ESTIMATED PAYMENT	\$ _____

RESOLUTION # _____
APPROVING UNINCORPORATED COMMUNITIES
FOR PARTICIPATION IN THE
FY 11 COMMUNITY REVENUE SHARING PROGRAM

A RESOLUTION APPROVING CERTAIN UNINCORPORATED COMMUNITIES AND THEIR RESPECTIVE NATIVE VILLAGE COUNCIL AND/OR INCORPORATED NONPROFIT ENTITY FOR PARTICIPATION IN THE FY 11 COMMUNITY REVENUE SHARING PROGRAM.

WHEREAS, AS 29.60.865 and 3 AAC 180.070 require the assembly of a borough or unified municipality to adopt a resolution identifying those unincorporated communities located within their municipal boundaries that the assembly determines meet the Community Revenue Sharing Program eligibility criteria established under AS 29.60.865, AS 29.60.879, and 3 AAC 180.110, and

WHEREAS, the unincorporated community has either a Native village council or incorporated nonprofit entity that will agree to receive and spend the Community Revenue Sharing payment for the public benefit of the unincorporated community; and

WHEREAS, the unincorporated community has 25 or more residents residing as a social unit; and

WHEREAS, at least three of the following services; fire protection, emergency medical, water and sewer, solid waste management, public road or ice road maintenance, public health, and search and rescue; are generally available to all residents of the unincorporated community and each of the three services, in any combination, are provided by one or more qualifying Native village council or incorporated nonprofit entity or are substantially paid for by the residents of the unincorporated community through taxes, charges, or assessments levied or authorized by the borough or unified municipality;

NOW THEREFORE BE IT RESOLVED THAT: The Assembly by this resolution hereby certifies that the following unincorporated communities and their respective Native village council or incorporated nonprofit entity are eligible for funding under the FY 11 Community Revenue Sharing Program:

Unincorporated Community	Native village council or nonprofit entity
_____	_____
_____	_____
_____	_____
_____	_____

PASSED AND APPROVED by a duly constituted quorum of the Assembly of the _____ this _____ day of _____, 20____.

SIGNED: _____
(Mayor)

ATTEST: _____
(Clerk)

(b) The per capita amount distributed to each community in the unorganized borough may not, when added to the basic community revenue sharing payment for that community, exceed the basic amount calculated under AS 29.60.855(b)(3). If the per capita distribution for a community exceeds the basic amount calculated under AS 29.60.855(b)(3), the excess amount shall be distributed on a per capita basis to other communities in the unorganized borough.

(c) For purposes of this section, the population of a municipality, reserve, or community shall be determined by using the numbers of permanent fund dividend recipients or other population data that the department determines is reliable. For purposes of determining the population of a borough, the population of each city in the borough shall be deducted from the total borough population. (§ 6 ch 12 SLA 2008)

Sec. 29.60.865. Eligibility requirements for reserves and communities.

(a) The department, with advice from the Department of Law, shall determine whether there is in each community or reserve an incorporated nonprofit entity or a Native village council that will agree to receive and spend the community revenue sharing payment. If there is more than one qualified entity in a reserve or community in the unorganized borough, the department shall pay the money to the entity that the department finds most qualified to receive and spend the money on behalf of the reserve or community. The department may not make a community revenue sharing payment to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the payment. A waiver of immunity from suit under this section must be on a form provided by the Department of Law. If there is no qualified incorporated nonprofit entity or Native village council in a reserve or community that is willing to receive the community revenue sharing payment and use the payment on behalf of that reserve or community, the payment for that reserve or community may not be paid. Neither this section nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council.

(b) The department may make a community revenue sharing payment on behalf of a community in a borough or unified municipality only to the municipality for payment by the municipality to an incorporated nonprofit entity or Native village council that has been approved by the assembly and meets the requirements of (a) of this section. The department shall have written evidence of the assembly approval. If there is more than one qualified entity in a community in a borough or unified municipality, one of the entities may receive the entire payment, or the payment may be shared between two or more of the qualified entities, as determined by the assembly.

(c) A community in a borough or unified municipality is eligible for a community revenue sharing payment only if at least three of the following services are generally available to all residents of the community and each of the three services, in any combination, are provided by one or more qualifying incorporated nonprofit entities or a Native village council or are substantially paid for by the residents of the community through taxes, charges, or assessments levied or authorized by the borough or unified municipality:

- (1) fire protection;
- (2) emergency medical;
- (3) water and sewer;
- (4) solid waste management;
- (5) public road or ice road maintenance;
- (6) public health;
- (7) search and rescue. (§ 6 ch 12 SLA 2008)

Sec. 29.60.879. Definitions. In AS 29.60.850 — 29.60.879,



(1) "community" means a place in the unorganized borough, in a borough, or in a unified municipality that is not incorporated as a municipality, that is not a reserve, and in which 25 or more individuals reside as a social unit;

(2) "reserve" means a place that is organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection. (§ 6 ch 12 SLA 2008)

Chapter 63. Special Assessments and Service Areas.

[Repealed, § 88 ch 74 SLA 1985.]

Chapter 65. General Grant Land.

Section

10. Determination of entitlement of boroughs and unified municipalities
20. Determination of entitlement for cities
30. Determination of entitlement for newly incorporated municipalities
40. Status of entitlements
50. Fulfillment of land entitlements
60. School and mental health land

Section

70. Selection and conveyance procedure
90. Authorization for land exchanges
100. Public purpose and expansion needs
120. Regulations
122. Prohibited acquisitions
129. Policy
130. Definitions
140. Application

Opinions of attorney general. — Since general grant land entitlements are considered vested property rights, the practical effect of AS 29.06.150 is that merger or consolidation does not create the right to an additional entitlement. The merger or consolidation itself does not create any additional entitlement or trigger AS 29.65.030(a). September 16, 1993 Op. Att'y Gen.

The policy expressed by a full reading of Title 29 is

that municipal alterations through such devices as mergers, consolidations, and dissolutions should not be used to arbitrarily enlarge the rights granted in AS 29.65. To permit a municipal alteration to trigger a new entitlement without regard to prior conveyances under AS 29.65 or 38.05.810 would result in certain municipal lands being counted twice in the determination of a municipal entitlement. December 14, 1993 Op. Att'y Gen.

Sec. 29.65.010. Determination of entitlement of boroughs and unified municipalities. (a) The general grant land entitlement of each of the municipalities in this subsection is the amount set out opposite each:

- (1) Municipality of Anchorage — 44,893 acres;
- (2) City and Borough of Juneau — 19,584 acres;
- (3) City and Borough of Sitka — 10,500 acres;
- (4) Bristol Bay Borough — 2,898 acres;
- (5) Fairbanks North Star Borough — 112,000 acres;
- (6) Haines Borough — 2,800 acres;
- (7) Kenai Peninsula Borough — 155,780 acres;
- (8) Ketchikan Gateway Borough — 11,593 acres;
- (9) Kodiak Island Borough — 56,500 acres;
- (10) Lake and Peninsula Borough — 125,000 acres;
- (11) Matanuska-Susitna Borough — 355,210 acres;
- (12) North Slope Borough — 89,850 acres;
- (13) City and Borough of Yakutat — 21,500 acres.

(b) [Repealed, § 12 ch 34 SLA 1987.] (§ 17 ch 74 SLA 1985; am § 12 ch 34 SLA 1987; am § 1 ch 108 SLA 1994; am § 1 ch 112 SLA 1998)

Sec. 29.65.020. Determination of entitlement for cities. (a) The general grant land entitlement of a city formerly eligible to receive general grant land under the provisions of former AS 29.18.190 and 29.18.200 is 10 percent of the maximum total

3 AAC 180.065 COMMERCE, COMMUNITY, AND EC. DEV. 3 AAC 180.080

(2) the qualifying entity must have held at least one public meeting in the community to give residents the opportunity to express their ideas and preference for the use of the community's revenue sharing payment and must have posted notice of the meeting in three public and prominent places in the community for at least five days before the meeting;

(3) the qualifying entity must agree to make a service or facility provided with money received under AS 29.60.855 and 29.60.860 available to every person in the community regardless of race, religion, color, national origin, age physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, or political affiliation; and

(4) the entity that is an incorporated nonprofit is considered active and in good standing with the department. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188)

Authority: AS 29.60.865 AS 44.33.020

3 AAC 180.065. Standards for payment to reserves. A reserve in this state eligible for payment under AS 29.60.865(a) must meet the same standards contained in this chapter for a municipality as if those standards applied to a reserve, except for the following:

- (1) 3 AAC 180.010(d);
- (2) 3 AAC 180.020(a);
- (3) 3 AAC 180.090. (Eff. 10/8/2008, Register 188)

Authority: AS 29.60.850 AS 29.60.865 AS 44.33.020

3 AAC 180.070. Standards for payment on behalf of communities located within boroughs and unified municipalities. A borough or unified municipality shall submit to the division a resolution adopted by the assembly that clearly identifies

(1) the communities it has determined meet the eligibility criteria under AS 29.60.865, 29.60.879, and 3 AAC 180.110; and

(2) the Native village council or incorporated nonprofit entity located within each community listed under (1) of this section that it has approved as the recipient of the community revenue sharing payment. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188)

Authority: AS 29.60.865 AS 29.60.879 AS 44.33.020

3 AAC 180.080. Determination of most qualified entity. If the division determines that there is more than one qualified entity within a community in the unorganized borough that will agree to receive and spend the community revenue sharing payment, the director shall determine which entity is to receive the payment. In making this

3 AAC 180.110. Determination of social unit. (a) The following factors shall be considered as presumptive evidence that individuals permanently residing in a community are considered a social unit under AS 29.60.879(1) for purposes of determining community eligibility under AS 29.60.865:

(1) the geographic area in which the persons reside is not disproportionate in size to that number of persons; in determining whether this standard has been met consideration shall be made to the physical topography of the area, the use of the land, land ownership patterns, and other factors that could affect population density; an area with a population density of at least 14 persons per square mile is considered to have met this standard;

(2) persons residing in that area are a discrete and identifiable unit; in determining whether this standard has been met, consideration shall be given to the school enrollment, sources of employment, voter registration, and the permanency of dwelling units; if the area has at least one commercial establishment, and if persons residing in the area do so in permanent dwelling units and their children are enrolled in an operating school in or near the area, this standard is considered to have been met.

(b) Individuals residing in the following places are not considered to be a social unit under AS 29.60.879(1) for purposes of determining community eligibility under AS 29.60.865:

(1) a place where public access or the right to reside at the location is restricted;

(2) a place that is contiguous to a city and is dependent upon the city to the extent that it exists only because the city exists; or

(3) a place provided by an employer that is populated primarily by persons who are required to reside there as a condition of their employment. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188)

Authority: AS 29.60.865

AS 29.60.879

AS 44.33.020

3 AAC 180.120. Preliminary and final payments. (a) Upon a finding by the director that it is in the state's best interest, the division may make preliminary community revenue sharing payments to eligible municipalities, communities located in the unorganized borough, and reserves. The amount of the preliminary payment shall equal the sum of the basic payment calculated under AS 29.60.855 and one-half of the estimated per capita payment calculated under AS 29.60.860.

(b) Immediately after identifying and verifying all information necessary to calculate final community revenue sharing payments, the division shall calculate and distribute final payments to all eligible municipalities, communities, and reserves. The amount of the final payment for each eligible municipality, community, and reserve shall

equal the difference between the amount of the total payments calculated under AS 29.60.855 and 29.60.860 and the amount distributed under (a) of this section. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188)

Authority: AS 29.60.855 AS 29.60.860 AS 44.33.020

3 AAC 180.130. Waiver of sovereign immunity. The department will not make a community revenue sharing payment under AS 29.60.855 and 29.60.860 to a village council or reserve unless the department receives, on a form approved by the Department of Law, a waiver of sovereign immunity from suit adopted by the governing body for claims related to the payment. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188)

Authority: AS 29.60.855 AS 29.60.865 AS 44.33.020
AS 29.60.860

3 AAC 180.140. Overpayment and adjustment. (a) If the amount that an entity receives under this chapter exceeds the amount that the applicant is entitled to receive during an allocation year, the department will either request the entity to return the excess to the state or will reduce the entity's payment for the next allocation year by the difference between the amount received and the amount that the entity was entitled to receive.

(b) If the commissioner determines that it is in the best interests of the state and the entity involved, the commissioner may extend the adjustment period over three allocation years.

(c) The commissioner may waive the return of the overpayment if

(1) the entity reasonably and in good faith relied upon the department's determination of the entity's payment; and

(2) the reason for the overpayment was all or in substantial part departmental error. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188)

Authority: AS 29.60.855 AS 29.60.860 AS 44.33.020



3 AAC 180.900. Definitions. In this chapter, unless the context requires otherwise,

(1) "allocation year" means the state fiscal year for which an appropriation is made by the legislature for distribution of community revenue sharing payments and immediately follows the computation year;

(2) "commissioner" means the commissioner of commerce, community, and economic development;

(3) "community" means an entity defined in AS 29.60.879(1);

3 AAC 180.900 COMMERCE, COMMUNITY, AND EC. DEV. 3 AAC 180.900

(4) "computation year" means the state fiscal year in which the division calculates community revenue sharing payments for distribution in the allocation year;

(5) "department" means the Department of Commerce, Community, and Economic Development;

(6) "director" means the director of the division of community and regional affairs;

(7) "division" means the division within the department responsible for community and regional affairs;

(8) "governing body" means

(A) the assembly or council for a municipality defined under AS 29.71.800(13);

(B) the council for a reserve defined in AS 29.60.879(2);

(C) the council for a Native village council; or

(D) the board of directors for an incorporated nonprofit entity;

(9) "municipality" means an entity defined in AS 29.71.800(13);

(10) "permanent resident" means a person whose primary place of residence is within the corporate limits of a municipality or community;

(11) "primary place of residence" means the place where a person sleeps on a weekly basis; if a person has more than one residence, "primary place of residence" means the place where the person sleeps more often during the calendar year;

(12) "public purpose" means a purpose the objective of which is to promote the public health, safety, and general welfare of the residents of a municipality, community, or reserve in the state;

(13) "village council" means

(A) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(B) a traditional village council recognized by the United States as eligible for federal aid to Indians; or

(C) a council recognized by the commissioner under 3 AAC 190.110 — 3 AAC 190.150. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188)

Authority: AS 29.60.879

AS 44.33.020